

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

HARVEY COHEN; DAWN ENNIS;
ROBERT BUCKLER; JEFFREY WEXLER;
UNION EQUITY PARTNER,

Plaintiffs-Appellants,

v.

STRATOSPHERE CORPORATION;
YAEGER SECURITIES, INC.; GRAND
CASINO RESORTS, INC.; LYLE
BERMAN; BOB STUPAK; BOB STUPAK
ENTERPRISES; ANDREW S. BLUMEN,
Defendants-Appellees.

No. 95-16098

D.C. No.
CV-94-00334-DWH
ORDER

Appeal from the United States District Court
for the District of Nevada
David Warner Hagen, District Judge, Presiding

Argued and Submitted
September 18, 1996—San Francisco, California

Filed October 25, 2004

Before: William C. Canby, Jr., Ferdinand F. Fernandez, and
Raymond C. Fisher,* Circuit Judges.

COUNSEL

Bert M. Brown, Brown & Brown, Chtd, Las Vegas, Nevada;

*On September 23, 2004, Judge Fisher was drawn to replace Judge Choy, deceased.

Sherrie R. Savett, Todd S. Collins, Berger & Montague, Philadelphia, Pennsylvania, for the plaintiffs-appellants.

Mark G. Krum, Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP, Los Angeles, California, for the defendant-appellee.

ORDER

Stratosphere Corporation was originally one of several defendants-appellees in appeal No. 95-16098. It entered bankruptcy while the appeal was pending, and all proceedings with regard to it were stayed in this court pursuant to 11 U.S.C. § 362(a). The panel as originally constituted decided the appeal with regard to all the other parties in *Cohen v. Stratosphere Corp.*, 115 F.3d 695 (9th Cir. 1997). We are now advised that Stratosphere's bankruptcy proceedings terminated on or about February 11, 2004. We therefore proceed with the appeal with regard to Stratosphere Corporation.

For the reasons stated in the prior opinion in this case, we now affirm the judgment of the district court dismissing, pursuant to Fed. R. Civ. P. 12(b)(6), the claims against Stratosphere Corporation based on the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5. We also affirm the dismissal without prejudice of the state law claims against Stratosphere. The judgment of the district court is therefore in all respects

AFFIRMED.

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